



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D C. 20224

October 1, 2008

Number: **200903085**

Release Date: 1/16/2009

UIL: 501.03-01

ORG
ADDRESS

Taxpayer Identification Number:
Person to Contact:
Employee Identification Number:
Employee Telephone Number:

**LAST DATE FOR FILING A PLEADING WITH THE TAX
COURT, THE CLAIMS, COURT, OR THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF COLUMBIA:**
December 30, 20XX

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

Dear ,

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you issued in November of 19XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

During the examination, you advised the Internal Revenue Service that you suspended your operations. You did not provide information in response to our reasonable request for information about your operations and did not file a final information return despite information showing a filing responsibility.

Section 1.6033-2(h)(2) of the Income Tax Regulations provides, in part, that every organization which is exempt from tax, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status.

You have failed to produce documents to establish that you are operated exclusively for exempt purposes within the meaning of Code section 501(c)(3), and that no part of your net earnings inure to the benefit of private shareholders or individuals. Also, you have failed to keep adequate books and records as required by Code section 6001 and the regulations there under, and failed to file returns as required by Code section 6033.

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending December 31, 20XX, and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments. You may write to the United States Tax Court at the following address:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

We will notify the appropriate State Officials of this action, as required by Code section 6104(c). You should contact your State officials if you have any questions about how this final determination may affect your State responsibilities and requirements.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Douglas H. Shulman
Commissioner
By

Vicki L. Hansen
Acting, Director EO Examinations

Internal Revenue Service

Department of the Treasury
TE/GE Exempt Organizations Examinations
915 Second Avenue M/S W540
Seattle, Washington 98174

Date: September 26, 2007

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

ORG
ADDRESS

Certified Mail - Return Receipt Requested

Dear ,

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number		Year/Period ended 12/31/20XX

LEGEND

ORG = Organization name XX = Date XYZ = State CEO = CEO
 POA = POA Address = Address City = city President = president

ISSUE

Whether ORG qualifies for exemption under §501(c)(3) of the Internal Revenue Code.

FACTS

ORG, EIN, filed Form 941 for the quarter ended March 31, 20XX, on April 30, 20XX, reporting \$ in taxable wages. The organization filed Form 941 for the quarter ended June 30, 20XX, on January 26, 20XX, reporting \$ in taxable wages. The Form 941 for the quarter ended September 30, 20XX, was filed on October 31, 20XX, reporting \$ in taxable wages. The organization filed a Form 941 for the quarter ended December 31, 20XX, on January 31, 20XX, reporting \$ in taxable wages.

ORG is recognized as exempt under §501(c)(3) of the Internal Revenue Code and as a public charity under §509(a)(2) of the Code. The last Form 990, *Return of Organization Exempt from Income Tax*, filed by the organization was for the tax period ended December 31, 20XX, received on November 14, 20XX. This Form 990 reported a year end total asset balance of \$

On October 2, 20XX, a phone call was placed to CEO, the chief executive officer and registered agent of ORG. Upon contact, CEO was notified of a pending examination of the books and records of the organization for the tax period ended December 31, 20XX. CEO indicated that a Power of Attorney was on file, requested that the IRS contact the Power of Attorney, and that as operations had ceased in June of 20XX, that the appropriate party to contact was the Power of Attorney. CEO was informed that an examination was to be conducted, and that per the Secretary of State of XYZ no termination was on file.

On October 2, 20XX, a phone call was placed to POA, the Power of Attorney of record for the organization. No one responding to the call, and a message was left on the positively identified answering machine of the POA. A second call was made on October 3, 20XX, to POA, when a message was left with a secretary. A call back was received from POA. After a brief discussion of the pending audit, POA indicated that she had no idea where the records were, that the organization was defunct, that it owed her money, and that she wished to revoke her Power of Attorney. A faxed Form 2848 was subsequently received revoking the Power of Attorney of POA.

On October 3, 20XX, a phone call was placed to President, president of the organization. There was no response after six rings.

On October 4, 20XX, a summons was issued to the XYZ State Gambling Commission for records pertaining to the tax period ended December 31, 20XX. Copies of the summons were sent to the organization at Address, City, XYZ, the address of record. No response was received from the organization with respect to the summons.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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On January 24, 20XX, three letters were issued to the ORG. The three letters were identical save for the mailing addresses. The first letter was addressed to the organization at Address, City, XYZ. The second letter was addressed to the organization care of CEO, Registered Agent, at Address, City, XYZ. The third letter was issued to the organization care of CEO, Registered Agent, Address, City, XYZ. All three letters requested the organization to file the Form 990 for the tax period ending December 31, 20XX.

Subsequent to the issuance of the letters, CEO called on February 27, 20XX, at which time the letter and accompanying Information Document Request were discussed. CEO was informed of how to dissolve the organization with the state, how to remove herself from registered agent status, and that she had until March 31, 20XX to file Articles of Dissolution with the Secretary of State of XYZ. No further contact has been received from CEO.

LAW

Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 6033(a)(I) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Section 1.6001-1(a) of the regulations in conjunction with section 1.6001-1(c) provides that every organization exempt from tax under section 501(a) of the Code and subject to the tax imposed by section 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by section 6033.

Section 1.6001-1(e) of the regulations states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Section 1.6033-1 (h)(2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

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Revenue Ruling 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax- exempt status and to determine its liability for any unrelated business income tax.

GOVERNMENT'S POSITION

CONCLUSION

The organization failed to meet the reporting requirements under sections 6001 and 6033 to be recognized as exempt from federal income tax under 501 (c)(3) of the Internal Revenue Code. The ORG is subject to a filing requirement to file a Form 990 when gross receipts exceeds \$ during a tax year. With payroll reported to the IRS at over \$ for the year, and the beginning assets for 20XX valued at \$ the organization has clearly demonstrated that income was in excess of \$ for the year ended December 31, 20XX. Accordingly, the organization's exempt status is revoked effective January 1, 20XX.

Form 1120 returns should be filed for the tax periods ending December 31, 20XX, and December 31, 20XX.

In accordance with Regulation §301.6213-1, the effective date of the revocation will be the first day after the end of the 90-day period (91st day).